

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 12**

**FLYING FOOD GROUP, INC. d/b/a  
FLYING FOODS<sup>1</sup>**

**Employer**

**and**

**Case 12-RC-8412**

**HOTEL EMPLOYEES RESTAURANT EMPLOYEES  
INTERNATIONAL UNION LOCAL 355, AFL-CIO**

**Petitioner**

**DECISION AND DIRECTION OF ELECTION**

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board, herein called the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding,<sup>2</sup> the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and hereby are affirmed.

---

<sup>1</sup> The name of the Employer appears as amended at the hearing.

<sup>2</sup> The briefs filed by the parties have been carefully considered.

2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.<sup>3</sup>

3. The labor organization involved claims to represent certain employees of the Employer.

4. A question affecting commerce exists concerning the representation of certain employees employed by the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

5. The Petitioner seeks to represent a unit of all full-time and regular part-time transportation employees, drivers, helpers, dispatch clerks, kitchen employees, equipment flight set-up employees, storeroom employees, dishroom employees, production employees (hot, cold, cutlery/packing, tray set-up, dessert, and cooks), porters, flight coordinators, lead persons in cold food, dishroom, storeroom and equipment flight set-up, the transportation hourly supervisor and the storeroom hourly supervisor employed by the Employer at its Miami, Florida, location, excluding all office clerical employees, storeroom clerks, maintenance employees, professional employees, managerial employees, guards and supervisors as defined in the Act.<sup>4</sup>

The Employer seeks to exclude all flight coordinators and all lead persons because it contends they are supervisors within the meaning of Section 2(11) of the Act. In the alternative, with respect to flight coordinators, the Employer contends that they do

---

<sup>3</sup> The parties stipulated that Flying Food Group, Inc., d/b/a Flying Foods, herein called the Employer, is an Illinois corporation with an office and place of business located at 4520 NW 20<sup>th</sup> Street, Miami, Florida, where it is engaged in the business of providing flight catering services for various airlines including those which operate out of Miami International Airport. During the past 12 months, a representative period, the Employer, in the course and conduct of its business operations, derived gross revenues in excess of \$500,000 and purchased and received at its Miami, Florida, location goods and materials valued in excess of \$50,000 directly from points located outside the State of Florida.

<sup>4</sup> The unit appears as amended at the hearing.

not share a community of interest with the petitioned-for unit employees because they perform quality assurance functions which create a conflict of interest with the petitioned-for unit employees. The Employer also seeks to exclude the transportation hourly supervisor and the storeroom hourly supervisor based on Section 2(11) status. Otherwise, the parties stipulated to the inclusion or exclusion of all other job classifications in the petitioned-for unit.

The parties stipulated to the exclusion of the following job classifications based on Section 2(11) status: general manager, operations manager, first shift transportation manager, third shift transportation manager, food service manager, sanitation/relief manager, executive chef, purchasing/storeroom manager, and shift/production manager. The parties also stipulated to the exclusion of the controller based on managerial status.

### Facts

The Employer has contracts with various airlines to provide in-flight catering services at Miami International Airport. The Employer operates seven days a week. The general manager is responsible for the overall operations of the Miami facility and acts as a liaison with the Employer's corporate headquarters in Illinois. The operations manager is responsible for the daily operations of the Miami facility, and he reports to the general manager. There are seven departmental managers who report to the operations manager: first shift transportation manager, third shift transportation manager, food service manager, sanitation/relief manager, executive chef, purchasing/storeroom manager, and shift/production manager.<sup>5</sup>

The storeroom department receives, inventories, stores and issues goods. The production department prepares and assembles trays of hot and cold

---

<sup>5</sup> The Employer provided organizational charts for the departmental supervisors, flight coordinators, and lead persons. See Employer's Exhibits 1 through 4.

meals. The transportation department assembles meals and equipment on trays for transport to the airport, where they are loaded onto outbound airplanes; it also transports dishes and equipment from inbound airplanes back to the facility. The dishroom department washes the dishes and equipment from inbound flights in preparation for subsequent outbound flights. The sanitation department cleans and maintains the facility.

In the transportation department, the hourly transportation supervisor, the lead person in equipment set-up, and the “lead” flight coordinator report to the first shift transportation manager.<sup>6</sup> Two employees work with the lead in equipment set-up.<sup>7</sup> The hourly transportation supervisor is responsible for the dispatch of the six drivers who work with the seven flight coordinators. In the food service department, there is a day shift lead and a night shift lead in cold food who report to the food service manager. Seventeen employees work on the day shift; the day shift lead works with a few employees who do the tray set-up. All three employees on the night shift work with the night shift lead. In the dishroom department, there is day shift lead and a night shift lead who report to the dishroom manager. All seven employees work with the day shift lead,<sup>8</sup> and all five employees work with the night shift lead. In the storeroom department, there is one lead who reports to the hourly storeroom supervisor; he reports to the purchasing/storeroom manager. Two employees work with the storeroom lead.

David Diamond, the general manager, testified regarding the daily operations of the Miami facility.<sup>9</sup> Diamond was hired in July 1999. The Employer posts

---

<sup>6</sup> See Employer’s Exhibit 1.

<sup>7</sup> The Employer provided the names and job classifications of all employees who work with the the individuals in the disputed job classifications. See Employer’s Exhibits 3 and 4.

<sup>8</sup> The day shift dishroom lead is on a leave of absence; the evidence does not show her date of return, if known.

<sup>9</sup> He was the Employer’s sole witness.

all new and vacant job positions.<sup>10</sup> In or about August 1999, he created the position of transportation hourly supervisor. This new position was posted as a “supervisor” position. The Employer selected a former dispatcher to fill the position; he received a \$1.00 an hour increase in wages.<sup>11</sup> Diamond testified that he created the position so the transportation manager would no longer have to oversee the dispatch operations during the peak flight period of the day; instead, he could focus on the overall operations of the kitchen.

The transportation hourly supervisor dispatches drivers to specific flights on a daily basis. According to Diamond, he makes flight assignments based on the “skills” of the driver; he described the skills as whether the driver “knows” the airline. However, the evidence shows that there are ten airlines serviced by the Employer. Of the six drivers, one works on eight of the airlines; two drivers work on six of the airlines; two drivers work on four of the airlines; one driver works on two of the airlines; and two drivers work on one airline only.<sup>12</sup> If a flight is scheduled to arrive late which would require the assigned driver to work overtime to service it, the transportation hourly supervisor could decide to have the driver work overtime or he could decide to assign the delayed flight to a driver on the incoming shift.<sup>13</sup> There is virtually no other evidence regarding his day-to-day activities.

On direct examination, in response to leading questions, Diamond assented that the transportation hourly supervisor can assign overtime, discipline employees, transfer employees, and recommend employees for promotion and termination.

---

<sup>10</sup> There are no written job descriptions for any of the disputed job classifications.

<sup>11</sup> He earns \$10.81 an hour; drivers earn \$8.00 an hour after one year. Diamond testified that “most” drivers earn more than \$8.00 an hour based on their years of service.

<sup>12</sup> See Employer’s Exhibit 3.

<sup>13</sup> Diamond testified that the transportation manager also could make this decision.

As noted, there are seven flight coordinators who work with six drivers. In addition, there is a lead in flight equipment set-up who works with two employees. When an employee becomes a flight coordinator, he receives an increase of 50 cents an hour.<sup>14</sup> Although Diamond testified that the flight coordinator is a “specialist” in an airline, the evidence shows that five of the seven flight coordinators are assigned to work with from two to five airlines and only two work with one airline. According to Diamond, the flight coordinator spends most of his time in the kitchen and is “part of the team” checking the quality of the food to insure compliance with the airline’s specifications. However, Diamond did not explain how the flight coordinators actually perform this function or describe their role on the team; and he did not describe the role of other team members. The flight coordinator checks the cleanliness of the dishware for his assigned flight to make sure that it meets the airline’s specifications. He checks that all requisite equipment and meal trays for his assigned flight are loaded onto the truck.

According to Diamond, the flight coordinators are the Employer’s representatives on the airfield with the airline. On the airfield, the drivers unload the inbound flight’s equipment and trays and then load the outbound flight’s equipment and trays. The flight coordinator boards the airplane to inform the airline’s flight attendant what has been loaded onto the airplane. If the flight attendant makes any special requests, the flight coordinator will forward them to the kitchen. According to Diamond, there are times when flight coordinators take orders directly from airline personnel and make “independent decisions” to insure customer “happiness”. However, Diamond provided no explanation or instances related thereto. Flight coordinators have attended meetings with airlines regarding safety issues.

---

<sup>14</sup> Unlike the stipulated departmental supervisors, the flight coordinators continue to punch a timeclock. They continue to receive the same benefits as the petitioned-for unit employees.

There is only about an hour for the drivers and flight coordinators to be on the airplane between inbound and outbound flights. The flight coordinator works with two to four drivers on the airfield depending on the flight. According to Diamond, the flight coordinators can assign drivers from one truck to another and from one flight to another, as well as assign overtime, to insure that a flight is serviced. Such actions appear to overlap with the dispatching duties of the transportation hourly supervisor, but the evidence does not clarify their roles in this respect.

Diamond testified that, in the absence of a flight coordinator, drivers have performed all duties and responsibilities of the flight coordinator on the airfield.

On direct examination, in response to a series of leading questions, Diamond testified that the flight coordinators give “feedback” to managers regarding employee evaluations, “input” regarding the retention of probationary employees, and recommendations for the promotion of drivers. They are “part of the process” of disciplining employees by “saying things to the supervisor”. They report rule infractions and safety violations to the transportation manager, although there is no evidence as to the procedure therefor. Diamond testified that their recommendations for handling such incidents are “followed”. They are expected to “address” employee problems and grievances on the airfield.

Diamond also created the position of storeroom hourly supervisor; the incumbent assumed the position two days prior to the hearing herein. Although Diamond initially testified that this new position was posted as a “supervisor” position, he later testified that it was posted as an “inventory specialist”. Diamond testified that he had worked with the incumbent at a prior employer; and Diamond had to pay him \$12.50

an hour in order to match his wages at their prior employer.<sup>15</sup> Diamond testified that he created the position because he wanted to upgrade the operations of the storeroom, especially the proper decanting and issuing of food to insure compliance with health standards; and he wanted the storeroom hourly supervisor to train the storeroom employees in proper handling and storing procedures. There is virtually no other evidence regarding his day-to-day activities.

On direct examination, in response to leading questions, Diamond assented that the hourly storeroom supervisor can make recommendations regarding hiring, firing, transferring, and overtime.

According to Diamond, when an employee becomes a lead person,<sup>16</sup> he receives an hourly wage increase of 10 percent above the job classification rate in his area.<sup>17</sup> The cold food leads make sure the food trays are properly set up and completed on time. The cold food leads know when food trays need to be completed to insure timely delivery to the assigned flight. If they observe that a food packing table is running late, or if they are informed that a flight is scheduled to leave early,<sup>18</sup> they can move employees around the area to insure timeliness. The day shift lead spends about 20 per cent of his time doing hands-on work; the night lead spends about 50 per cent of his time

---

<sup>15</sup> Storeroom employees earn about \$6.15 an hour.

<sup>16</sup> Unlike the stipulated departmental supervisors, lead persons continue to punch a timeclock. They continue to receive the same benefits as the petitioned-for unit employees.

<sup>17</sup> The evidence is contradictory on this issue. For example, the night shift dishroom lead received an increase of 60 cents, which was 10 per cent of his prior hourly wage of \$6.25 an hour. In its brief, the Employer argues that other leads (cold food and storeroom) earn much higher hourly wages than the employees in their area. However, the evidence shows that one cold food lead earns \$6.84 an hour and the other earns \$7.30 an hour; and cold food employees earn from \$5.35 to \$6.84 an hour. The storeroom lead earns \$9.79 an hour, and the storeroom employees earn \$6.15 an hour. Moreover, all figures can be skewed due to years of service.

<sup>18</sup> Diamond testified that drivers can inform leads that flights are scheduled to leave early.



doing so.<sup>19</sup> The dishroom leads tell the dishroom employees which airline (flight) dishware to clean first, which is based on flight schedules. They make sure the dishwashing machines are working properly and tell the dishroom manager if there are any mechanical problems. After the dishware has been cleaned and placed on trays, the leads organize the trays on racks and position the equipment on the production floor. The leads spend about 20 percent of their time doing hands-on work.<sup>20</sup> The storeroom lead orders, inventories, and organizes goods for the storeroom. He tells the two storeroom employees where the goods should be stocked. He performs no stock work. The equipment flight set-up lead works with two employees and prepares the equipment for placement on the trucks for delivery to the assigned flight. He spends 90 percent of his time in hands-on work.

On direct examination, in response to a series of leading questions, Diamond assented that leads makes recommendations regarding discipline and promotion (which are followed), have the authority to assign overtime, and “handle” employee grievances or problems in their area. He testified that leads are “part of the process” regarding employee evaluations by giving “feedback” to managers on employees. In response to a leading question as to whether managers rely on the leads’ feedback or managers conduct “an independent investigation”, Diamond testified : “I think they rely on them.” Diamond testified that they are “part of” the decision to retain probationary employees. Diamond assented that employees view leads as their

---

<sup>19</sup> Diamond provided the estimates regarding the leads’ hands-on work, that is, performing the same work as the employees in their group.

<sup>20</sup> This testimony is disputed by the night shift lead who testified that he spends virtually all his time doing manual labor. As noted above, the day shift lead has been on a leave of absence.

supervisors. On cross-examination, Diamond testified that he based this statement on “general knowledge”. Although Diamond assented that there are times when leads work in the absence of managers in their area, it appears from the evidence that there is at least one manager present at all times in each department; moreover, there are times when there are multiple levels of management present at the facility.

Diamond failed to testify regarding a single incident where the “input” or “feedback” of a flight coordinator, a lead person, the transportation hourly supervisor, or the storeroom hourly supervisor resulted in the discipline, discharge, retention, promotion, reward, evaluation, or transfer of any employee. He also failed to testify as to a single incident where they adjusted or resolved the grievance of any employee.

Regarding the assignment of overtime, Diamond testified that overtime is seasonal and dictated by the [flight] demands of the day and the time-sensitive nature of the business. When flights are late, the issue of overtime can be “out of [the Employer’s] control” because the Employer must service the flights whether they are on time or late. Moreover, Diamond testified that overtime is “managed” on a daily basis and he “personally questions” overtime every day. Employees are expected to comply with a request to work “reasonable” overtime but volunteers can be solicited. There is no evidence that flight coordinators, lead persons, the transportation hourly supervisor or the storeroom hourly supervisor can order an employee to work overtime.

On cross-examination, Diamond testified that there is no company policy that managers meet with lead persons to inform them of any new duties or new authority. A manager would not record in any manner the input or feedback provided by a lead person or flight coordinator regarding the job performance of any employee.

There are no written evaluations of employees, probationary<sup>21</sup> or tenured. There are no merit increases granted to employees. Managers review applications for promotions; lead persons and flight coordinators do not do so. There are no transfers between departments unless due to a promotion. If an employee wishes to change his work schedule, he tells the lead person who takes the request to his manager.

Diamond testified that there is a “pattern” of progressive discipline: a verbal warning, two written warnings, suspension and termination. Neither lead persons nor flight coordinators have the authority to issue verbal warnings or reprimands. Diamond testified that there had been one termination since his hire. The operations manager consulted with him, and he consulted with human resources at corporate headquarters, before a final decision was made to terminate the employee.

There is no evidence that managers conduct formal meetings with flight coordinators or lead persons in the absence of employees; rather, the managers will inform them of any daily events or changes in the regular work assignments and they are expected to “carry out” the directions of management.

In response to a series of leading questions, the night shift lead person in the dishroom denied that he had been informed of any authority to hire, discipline, or discharge any employee or to make any recommendations related thereto. He testified that he had never been asked for his evaluation of any employee’s work performance. He testified that his manager assigns overtime and makes any changes in employee schedules. The manager gives him a written list of all employee assignments (by airline flight) each shift. If there is a change in the flight schedule, the manager tells him and he relays the information to the employees. He testified that he spends virtually his entire shift doing hands-on work.

---

<sup>21</sup> Diamond did not know if the probationary period is 60 or 90 days.

## Analysis

The Petitioner seeks to represent all flight coordinators, all lead persons in cold food, dishroom, storeroom, and equipment flight set-up, the transportation hourly supervisor and the storeroom hourly supervisor. The Employer contends that all flight coordinators, all lead persons and all hourly supervisors should be excluded from the unit because they are supervisors within the meaning of Section 2(11) of the Act. In the alternative, with respect to flight coordinators, the Employer asserts that they do not share a community of interest with the petitioned-for unit employees because they perform quality assurance functions which create a conflict of interest with the petitioned-for unit employees

Section 2(11) of the Act defines a supervisor as:

any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively recommend such action, if in connection with the foregoing the exercise of such authority is not merely of a routine or clerical nature, but requires the use of independent judgment.

The Board has long held that the party alleging supervisory status bears the burden of proving that such status exists. Tucson Gas and Electric, 241 NLRB 181 (1979); Bakers of Paris, Inc., 288 NLRB 991, 1007 (1988). The definition of supervisory status is written in the disjunctive. Thus, an individual who in the interest of the employer uses independent judgment in the exercise of any one of the listed indicia can be found to be a supervisor. However, the exercise of some supervisory authority in a merely routine or perfunctory manner does not confer supervisory status. Alois Box Co., Inc., 326 NLRB No. 110 (1998), citing Chicago Metallic Corp., 273 NLRB 1677, 1689 (1985).

In the absence of evidence that the individual has exercised indicia of supervisory status, the Board will not conclude that the individual possesses supervisory

authority without corroborating evidence such as a written job description, documents referring to the individual as a supervisor, documents detailing supervisory status, or corroborating testimony of other employees. Control Services, Inc., 314 NLRB 421 (1994). The Board has stated that "conclusory statements made by witnesses in their testimony, without supporting evidence, does not establish supervisory authority". Sears, Roebuck & Co., 304 NLRB 193 (1991).

The Board has stated that there is a duty to employees not to construe supervisory status too broadly because an individual deemed a supervisor loses the Section 7 rights intended by Congress to be protected by the Act. Biewer Wisconsin Sawmill, 312 NLRB 506, 507 (1993).

The Employer's evidence consists of a single witness who assented to a series of leading questions by its counsel to show that the individuals in the disputed job classifications possess various indicia of supervisory status. The Employer's witness failed to testify as to a single incident where any individual in the disputed job classifications has actually exercised the authority to hire, transfer, suspend, lay off, recall, promote, discharge, reward, or discipline other employees, or to adjust their grievances, or effectively recommended such actions. The record is devoid of evidence corroborating the Employer's witness, such as documents referring to the disputed individuals as supervisors, written job descriptions, documents detailing supervisory authority, or corroborating testimony by other employees.

According to Diamond, the flight coordinators report rule infractions and safety violations by employees to management, make recommendations on how to "handle" them, and these recommendations are "followed". However, there is no evidence of a single incident where a flight coordinator's reportorial role affected an employee's job status or tenure. Moreover, Diamond did not describe the rules and safety standards so the evidence does not establish that a flight coordinator would

exercise any discretion or independent judgment in finding and reporting a rule infraction or safety violation. Diamond did not testify how they have been "handled" in the past, or if management conducts an independent investigation or inspection related thereto.

Although it is not necessary, of course, for the Petitioner to proffer evidence that the disputed individuals are not statutory supervisors, the testimony of the night shift lead person in the dishroom contradicts the Employer's evidence regarding statutory supervisory status.

Moreover, the Employer's witness testified that there are no written evaluations of either probationary or tenured employees. There are no merit increases. A manager would not record in any manner the "input" or "feedback" provided by flight coordinators or lead persons regarding employee performance; and they do not have the authority to issue verbal warnings or reprimands. They do not review applications for promotion, and there are no inter-departmental transfers unless due to a promotion.

The Employer's other evidence proffered to establish supervisory status consists of Diamond's testimony regarding the disputed individuals' authority to assign and direct the work of the petitioned-for unit employees. This evidence will be discussed below for each of the disputed job classifications. With regard to this evidence, it should be noted at the outset that the Employer is required to provide in-flight catering services for the daily flights of its contracted airlines. The Employer must do so whether the flights arrive on time or late. Thus, it is the nature of the Employer's operations that its production process and delivery be completed for each day's flights in a timely manner. The Employer does not have the discretion to delay its production process or delivery, either in hours or in days.

The transportation hourly supervisor dispatches six drivers to deliver flight equipment and food trays to specific flights. Although Diamond testified that he dispatches a driver based on the driver's "skills" (which he described as whether the

driver “knows” the airline), the evidence shows that five of the six drivers work on several airlines. Thus, it would not be difficult to determine which driver should be given the flight assignment. Moreover, the function of the driver is to unload and load equipment and food trays on airplanes. The evidence does not establish that such duties require any special skills; rather, such duties appear routine and repetitive in nature. The Board views assignments similar in nature to those of the transportation hourly supervisor to be a function of routine work judgment which does not require the exercise of independent judgment. See Clark Machine Corp., 308 NLRB 555 (1992).

The storeroom hourly supervisor began his employment two days prior to the hearing held herein. Diamond testified that he was hired to “upgrade” the operations of the storeroom, especially the proper decanting and issuing of food to insure compliance with health standards. Diamond testified that he will train the two storeroom employees in proper handling and storing procedures. There is no evidence regarding his role in the assignment or direction of employees in the training capacity, or in any other manner. Moreover, the evidence shows that the two storeroom employees work with the storeroom lead person, who reports to the purchasing/storeroom manager. Thus, the Employer contends that there are three supervisors for two employees. The Board does not view on-the-job training, even where the trainer corrects employee mistakes and certifies employee competency to perform the new tasks, as evidence of supervisory status. See Consolidated Services, Inc., 321 NLRB 845 (1996).

As noted above, the Employer contends that the flight coordinators should be excluded from the unit based on Section 2(11) status or based on their “quality assurance” functions. The flight coordinators spend most of their time in the kitchen checking the quality of the food as “part of a team”, as well as the cleanliness of the dishware, to insure compliance with the airline’s specifications. However, the evidence does not show how they actually perform this function, and it does not show

their specific role as part of the undefined “team”. Moreover, the evidence does not describe how other members of the team function in this area. Thus, there is no evidence to show the nature of the flight coordinators’ assignments or directions, if any, in this area. Although there is a lead person in flight equipment set-up who works with two employees, the flight coordinator also ensures that all equipment and food trays are loaded onto the truck for the flight assignment. There is no evidence that the work of the employees in this area is other than routine and repetitive, or simple and unskilled.

The Board generally includes quality assurance [control] employees in production and maintenance units based on traditional community of interest standards. See Keller Crescent Co., 326 NLRB No. 108 (1998); Blue Grass Industries, Inc., 287 NLRB 274 (1987). In order to perform their inspection duties, the flight coordinators work on the production floor and on the airfield where they interact with petitioned-for unit employees. They have common departmental supervision with petitioned-for unit employees by the transportation manager. It appears from the record that they work the same hours, or overlapping hours, as petitioned-for unit employees. When they become flight coordinators, they earn an additional 50 cents an hour over the petitioned-for unit drivers; and they receive the same benefits as the petitioned-for unit employees. Their primary functions performed in the kitchen integrate them into the production process.

Assuming arguendo that the flight coordinators have the authority to report rule infractions and safety violations which could cause disciplinary action to be taken against petitioned-for unit employees, the Board requires evidence that quality control employees have actually exercised such authority in order to exclude them from a unit. Blue Grass Industries, 287 NLRB at 299. As the Employer proffered no evidence that the flight coordinators have actually exercised such authority, there is insufficient evidence to exclude them from the petitioned-for unit based on their quality assurance functions.



With respect to the Employer's argument that the flight coordinators have a "duty of loyalty" to the Employer to report any quality issues to management which places them in conflict with unit employees, the Board views the duty to discover defects or flaws in work products and report them to management as insufficient to exclude quality control employees from a unit. Id. The Employer's argument that employees "might perceive" that they have a conflict of interest with flight coordinators is pure speculation as there is no evidence that employees view the flight coordinators as more closely aligned with supervisors or managers.

In summary, Diamond's cursory testimony regarding the duties and responsibilities of the flight coordinators fails to establish that any assignment or direction of employees by them would require the exercise of independent judgment or discretion associated with statutory supervisory authority, or to establish that their quality assurance functions constitute a basis to exclude from the petitioned-for unit.

On the airfield, the seven flight coordinators work with the six drivers who are dispatched by the transportation hourly supervisor. Thus, the Employer contends that there are eight supervisors for six drivers. On the airfield, the flight coordinators can assign drivers from one truck to another or from one flight to another to ensure timely delivery.<sup>22</sup> The flight coordinators and the drivers have been assigned to certain flights with scheduled departures. Thus, the flight coordinator is simply moving employees to different trucks or flights to ensure timely delivery. As noted above, the drivers perform routine and repetitive functions. The Board does not view the authority to move employees to different positions in a routine production process in order to meet the Employer's production needs as evidence of supervisory status. See J. C. Brock Corp., 314 NLRB 157 (1994); Hexacomb Corp., 313 NLRB 983 (1994). Although the flight

---

<sup>22</sup> This function overlaps with the function of the transportation hourly supervisor but the evidence does not clarify their roles in this respect.

coordinators and drivers are engaged in providing services rather than producing goods, the Board's rationale is applicable in either context.

The lead persons in cold food work ensure that the food trays are properly set up and completed on time. They monitor production and move employees around their area, if necessary, to ensure timely completion. The leadpersons in the dishroom inform employees which airline (flight) dishware to clean first, which is based on flight schedules. The leadperson in the storeroom orders and inventories goods. He organizes the storeroom and tells the storeroom employees where they should be stocked. The leadperson in equipment flight set-up prepares the equipment for placement on the trucks for delivery to the assigned flight. He spends 90 percent of his time doing hands-on work. There is no evidence to establish that any of the functions performed by the employees in the cold food area, the dishroom, the storeroom, or the equipment flight set-up area is other than routine and repetitive in nature; rather, it appears that the production work is simple and unskilled in nature. In similar contexts, the Board views evidence that employees have the authority to monitor production to ensure that the work gets done in a timely fashion, and to move employees around an area to do so, is insufficient to establish supervisory status. J. C. Brock Corp., 314 NLRB 157; Hexacomb Corp., 313 NLRB 983. In addition, the Board views a lead person who is informed by management of daily work schedules or changes which he then communicates to employees in his work area as a mere conduit for management instructions. Alois Box, 326 NLRB No.110.

With regard to the assignment of overtime by any of the disputed individuals, Diamond's testimony undermines the Employer's position that the assignment of overtime would require the exercise of independent judgment or discretion associated with statutory supervisory authority. Diamond testified that

overtime is dictated by the flight demands of the day and the time-sensitive nature of the business.

If a flight is late, the issue of overtime is out of the Employer's control as it must service a flight whether it is on time or late. Also, overtime is managed on a daily basis, and he personally questions overtime each day. Moreover, there is no evidence that any of the disputed individuals has the authority to order an employee to work overtime.

Based on the foregoing, and the record as a whole, I find that the Employer has failed to meet its burden to establish that the transportation hourly supervisor, the storeroom hourly supervisor, the flight coordinators, the leadpersons in cold food, dishroom, storeroom, and equipment flight set-up should be excluded from the petitioned-for unit based on supervisory status. I also find that the evidence is insufficient to exclude the flight coordinators on the basis of their quality assurance functions. The evidence shows that the disputed individuals share a sufficient community of interest with the petitioned-for unit employees to warrant their inclusion in the appropriate unit herein.

Accordingly, in view of the foregoing, and the record as a whole, I find that the following employees of the Employer constitute an appropriate unit for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time transportation employees, drivers, helpers, dispatch clerks, kitchen employees, equipment flight set-up employees, storeroom employees, dishroom employees, production employees (hot, cold, cutlery/packing, tray set-up, dessert, and cooks), porters, flight coordinators, lead persons in cold food, dishroom, storeroom and equipment flight set-up, the transportation hourly supervisor and the storeroom hourly supervisor employed by the Employer at its Miami, Florida, location, excluding all office clerical employees, storeroom clerks, maintenance employees, professional employees, managerial employees, guards and supervisors as defined in the Act.

## **DIRECTION OF ELECTION**

An election by secret ballot shall be conducted by the undersigned among the employees in the unit found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit who were employed during the payroll period ending immediately before the date of this Decision, including employees who did not work during that period because they were ill, on vacation or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their status as such during the eligibility period and their replacements. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced.<sup>23</sup> Those eligible shall vote whether or not they desire to be

---

<sup>23</sup> In order to assure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses which may be used to communicate with them. Excelsior Underwear, Inc., 156 NLRB 1236 (1966); N.L.R.B. v. Wyman-Gordon Company, 394 U.S. 759 (1969). Accordingly, it is hereby directed that two (2) copies of separate election eligibility lists for each unit, containing the full names and addresses of all eligible voters, must be filed by the Employer with the Regional Director for Region 12 within 7 days of the date of this Decision and Direction of Election. North Macon Health Care Facility, 315 NLRB 359 (1994). In order to be timely filed, such list must be received by the Regional Office, SouthTrust Plaza, Suite 530, 201 E. Kennedy Boulevard, Tampa, Florida 33602-5824 on or before November 26, 1999. No extension of time to file this list shall be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the filing of such list. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed.

represented for collective bargaining purposes by Hotel Employees Restaurant  
Employees International Union Local 355, AFL-CIO.

Dated at Tampa, Florida, this 19th day of November, 1999.<sup>24</sup>

---

Rochelle Kentov, Regional Director  
National Labor Relations Board, Region 12  
201 E. Kennedy Boulevard, Suite 530  
Tampa, FL 33602

440 1760 1580  
460 7550 8700

---

<sup>24</sup> Under the provisions of Section 102.67 of the Board's Rules and Regulations, Series 8, as amended, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, NW, Washington, DC 20570-0001. This request must be received by the Board in Washington, DC by December 3, 1999.

